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EXTRAORDINARY

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LOK SABHA

The following Bill was introduced in Lok Sabha on the 21st December, 1960:—

*BILL No. 87 of 1960

A Bill to amend the Marking of Heavy Packages Act, 1951.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. This Act may be called the Marking of Heavy Packages Short title.
(Amendment) Act, 1960.

39 of 1951. 5 2. For sections 4 and 5 of the Marking of Heavy Packages Act, 1951, the following sections shall be substituted, namely:—

10 “4. (1) The Central Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act and assign to each of them one or more areas to be specified in the notification, or to two or more of them the same area to be so specified.

Substitution
of new sec-
tions for sec-
tions 4 and 5.
Inspectors.

45 of 1860 (2) Every inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill.

Powers of inspectors.

5. Subject to any rules made by the Central Government in this behalf, an inspector appointed under sub-section (1) of section 4 may—

(a) enter, with such assistants as he considers necessary, and inspect any place or vessel and examine any packages found therein; 5

(b) if, on such examination, any heavy package is found not to have been marked in accordance with the provisions of section 3, direct that the package shall not be transported by sea or inland waterway until it has been marked in accordance with those provisions: 10

Provided that, instead of issuing any direction as aforesaid, the inspector may himself cause the package to be marked in accordance with the provisions of section 3; and in any such case, the expenses incurred by him for such marking shall be recoverable as an arrear of land revenue from the person consigning the package for transport. 15

Penalties.

6. (1) If any person contravenes—

(a) the provisions of section 3, or

(b) any direction given by an inspector under clause (b) of section 5, 20

he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person wilfully obstructs an inspector in the exercise of his powers under this Act, he shall be punishable with fine which may extend to two hundred rupees. 25

Offences by companies.

7. (1) Where the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 30

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 35

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with 40

the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director", in relation to a firm, means a partner in the firm.

Cognizance of offences.

8. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No court shall take cognizance of any offence under this Act except on a complaint in writing made by an inspector within six months of the date on which the offence is alleged to have been committed.

Protection of action taken in good faith.

9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to make rules.

10. (1) The Central Government may, by notification in the Official Gazette, make rules providing for—

(a) the conditions as to the manner of marking of heavy packages, the manner of their packing and the type of covering to be used;

(b) the cases or circumstances in which the approximate weight of heavy packages instead of their correct weight may be marked;

(c) any other matter which has to be, or may be, provided for by rules.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Marking of Heavy Packages Act, 1951 (39 of 1951) requires every person consigning a heavy package for transport by sea or inland waterway from any place in India to have marked thereon plainly, durably and conspicuously the gross weight of the package. Section 4 prescribes the penalty for the contravention of the provisions of section 3. The Act does not, however, contain provisions for the appointment of officers or authorities for the enforcement of its provisions or defining their powers or for the procedure for the trial of offences under the Act. The Bill seeks to amend the Act to provide for these matters.

NEW DELHI;

RAJ BAHADUR.

The 29th November, 1960.

FINANCIAL MEMORANDUM

The Bill provides for the appointment of Inspectors for the enforcement of the provisions of the Marking of Heavy Packages Act, 1951. It is not proposed to appoint full-time officers under the Act, but merely to entrust the duties of the Inspector to certain officials of the Government of India and of the State Governments. Since the Inspectors would be part-time officials the only expenditure that may have to be incurred on the enactment of the Bill will be the payment of some remuneration to those part-time officials. It is not possible to indicate the expenditure likely to be involved but this is expected to be insignificant.

2. Section 5 of the Act, as amended, provides for the Inspector to cause the packages marked in accordance with the provisions of section 3 which will involve some expenditure. This is also not likely to be significant and will be ultimately recovered from the person consigning the package.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 10 proposed to be inserted by clause 2 of the Bill replaces section 5 of the Act. It empowers the Central Government to make rules to provide for the matters specified in that section. They relate to the manner of the marking and packing of heavy packages and the circumstances in which the approximate weight of packages may be marked. The delegation of legislative powers is thus of a normal character.

M. N. KAUL,
Secretary